

“Compliance Guidance for Importers and Distributors”

California’s Composite Wood Products ATCM

**Joint CARB-IWPA Webinar
September 23, 2008**

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Air Resources Board



Overview

- ATCM Overview
- How do I comply?
 - Importer/Distributor Requirements
- Sell-through Provisions
- Third Party Certification
 - Status Update
 - Status of Product Certification
- Enforcement
- Question and Answer Session

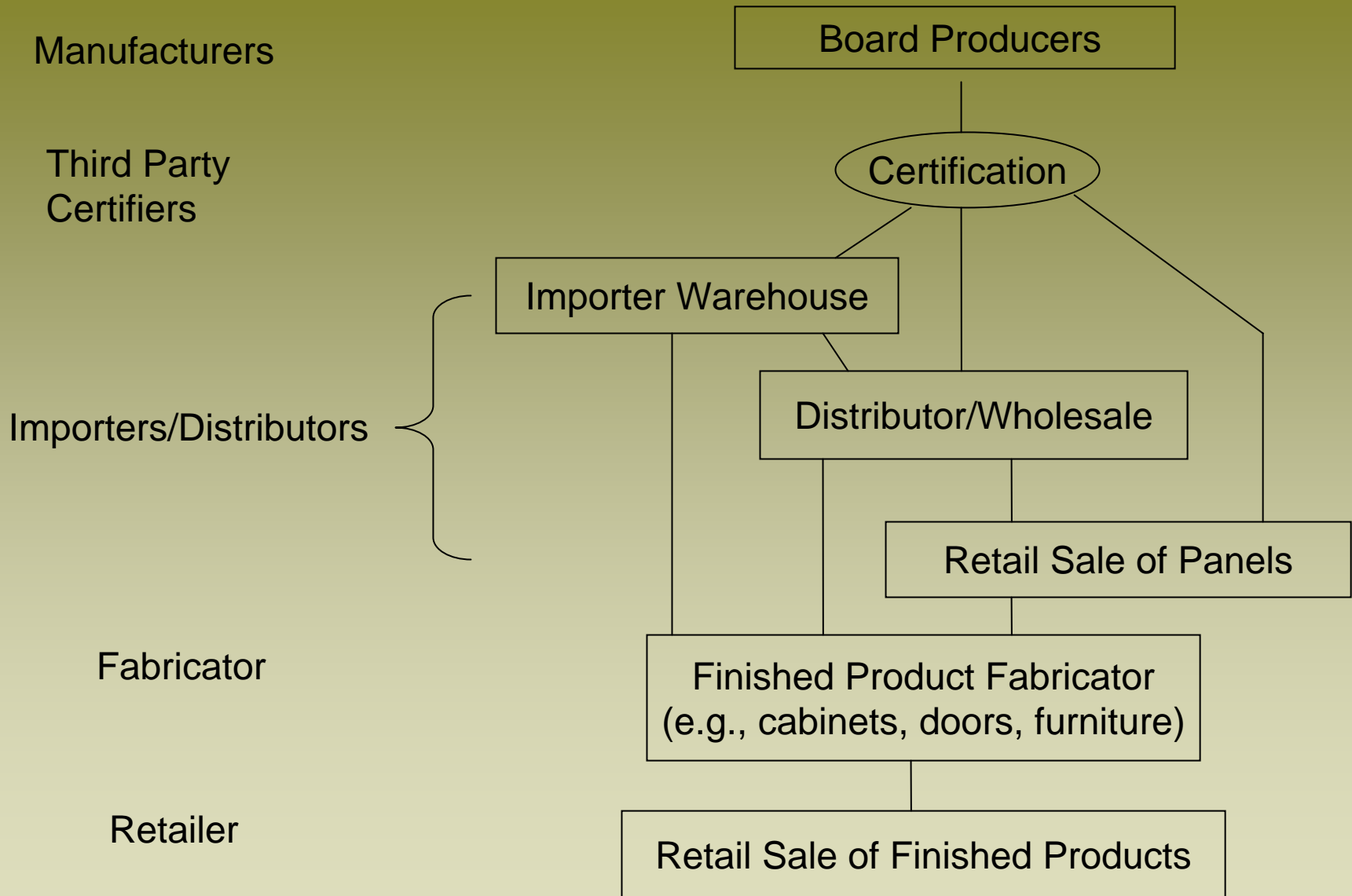




Airborne Toxic Control Measure (ATCM): Overview

- Establishes new formaldehyde emission limits for composite wood products, including particleboard (PB), medium density fiberboard (MDF), and hardwood plywood (HWPW)
- Applies to finished goods containing composite wood products
- Applies to products sold, supplied, used, or manufactured for sale in California
- Reduces public exposure due to formaldehyde emissions from PB, MDF, and HWPW

Regulated Community





Manufacturers

- “Producers” of composite wood products
- Meet emission standards
- CARB certification
 - Must enlist a services of a third party certifier
- Product labeling
- Statement of compliance to provide chain of custody



Third Party Certifiers (TPC)

- “Validates” CARB compliance at manufacturing mill
- Independently verifies manufacturers’ ability to provide consistent quality
- Certification is an integral aspect of ATCM
- Only qualified certifiers approved by CARB



Fabricators

- “Users” of PB, HWPW, MDF
 - For example: cabinet shops, furniture makers
- Reasonable prudent precautions
- Product labeling
- Statement of compliance
- Recordkeeping



Importers/Distributors

- “Transporters of goods”
 - Raw panels (PB, HWPW, MDF)
 - Finished goods
- Reasonable prudent precaution
- Product labeling, only if product is modified
- Statement of compliance
- Recordkeeping



Retailers

- “Goods provider” to consumers/public
 - Raw panels (PB, HWPW, MDF)
 - Finished goods
- Reasonable prudent precaution
- Recordkeeping



How Do I Comply?

Importer/Distributor Requirements

- No Third Party Certification Required

Responsibility applies to board manufacturers only



- Good Faith Efforts to Comply

Supply chain management

“Reasonable prudent precautions” (ATCM required)

Due diligence

Establish internal policies

Internal auditing – Quality Control



How Do I Comply?

Importer/Distributor Requirements

- **Product Labeling**

No additional labeling is required unless product is modified by importer/distributor

- **Statement of Compliance**

Designate goods as being made with compliant HWPW, PB, or MDF that complies with applicable emission standards

i.e., purchase orders, invoice, or bill of lading also provide to customers downstream

- **Recordkeeping**

Record dates of purchase and suppliers name
Retain records for minimum of 2 years





Sell-through Provisions

§ 93120.12 –Appendix 1 (b), (c)

- Allows sale of non-compliant products manufactured prior to standard effective dates
- Importers
 - HWPW, PB, MDF panels: **3 months**
 - Finished goods: **18 months**
- Distributors
 - HWPW, PB, MDF panels: **5 months**
 - Finished goods: **18 months**
- Enforcement sell-through advisory:
http://www.arb.ca.gov/toxics/compwood/implementation/sell_thruadvisory.pdf

Third Party Certification Program Update



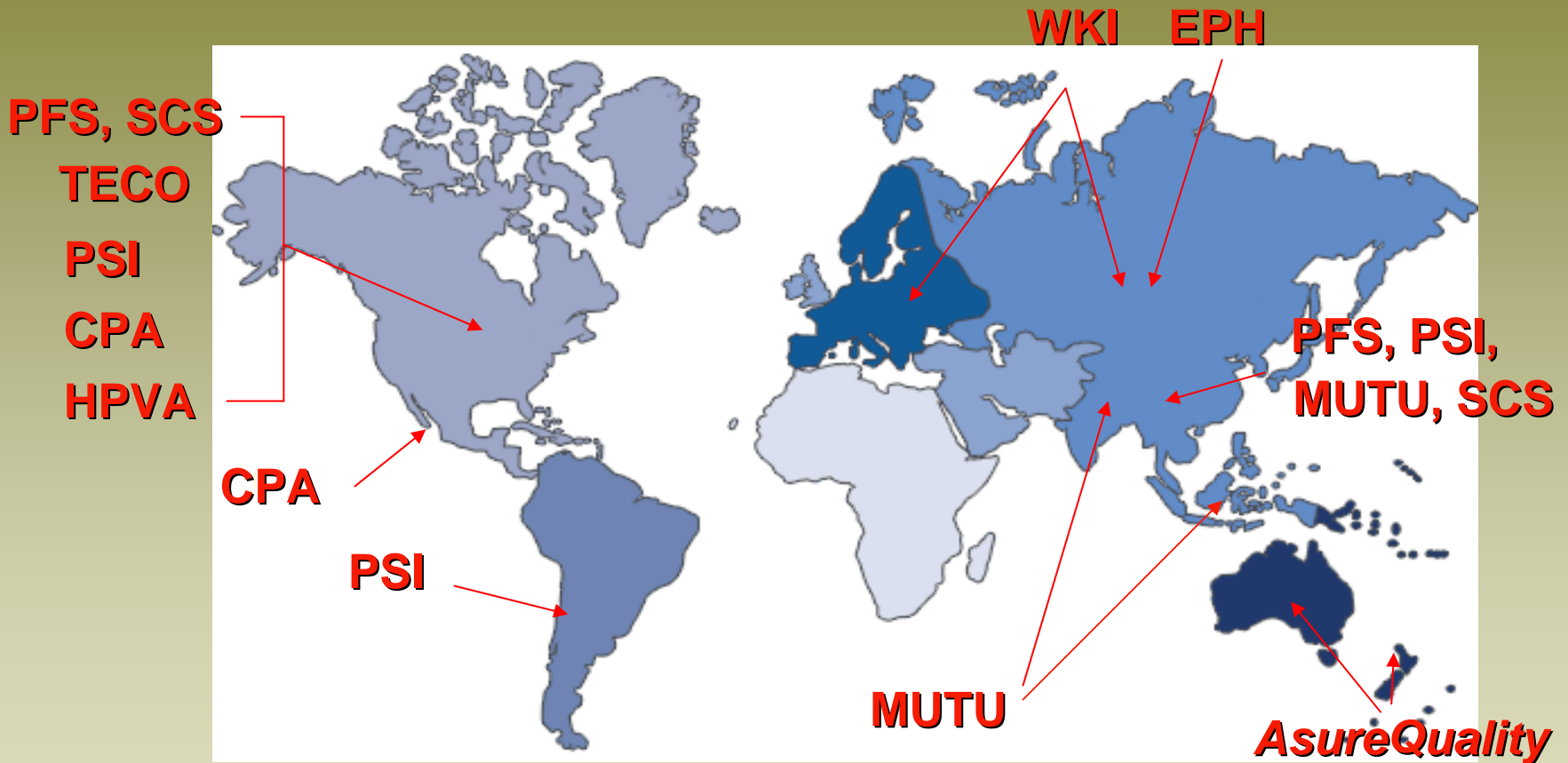


Third Party Certification Program Update

- List of approved TPCs are posted on ARB website
 - 11 applications are approved
 - 12 applications are under review
- Numerous contacts by candidate TPCs
- Approved TPCs are providing global certification services



TPC Status



CPA=Composite Panel Association, PSI=Professional Service Industries, WKI=Wilhelm Klauditz, PFS Corporation, MUTU=Mutu Certification, AsureQuality Limited, HPVA=Hardwood Plywood and Veneer Association, SCS=Scientific Certification Systems, EPH¹⁵



Status of Manufacturing Mill Certification

- 75% of U.S. PB and MDF CARB certified; 90% in 2 months
- ~ 60% of U.S. HWPW CARB certified by Fall 2008
- Over 100 mills (PB, MDF, HWPW) globally going through CARB certification process
 - Over 40 mills in China, Malaysia, Indonesia and Vietnam



TPC Applications Under Review

- SGS from **China**
- Intertek from **China (applications for 2 branches)**
- SP Technical Research Ins. from **Sweden**
- AIDIMA from **Spain**
- CATAS from **Italy**
- Timber Research & Development
Institute from **Prague, Czech Republic**
- FCBA from **France**
- Poznan from **Poland**
- MPA Eberswasde from **Germany**
- AWPB Testing and Cert. from **Australia**
- NSF from **United States**
- List of approved third party certifiers:
<http://www.arb.ca.gov/toxics/compwood/certifiers.htm>

Enforcement





Enforcement

Overview

- Field inspections
 - Labeling
 - Use of field screening (FLEC)
- Enforcement emission testing
- Investigations
- Penalty assessment
- Case settlement





Enforcement

Field Inspections

- Inspect product for compliance with labeling requirements
- Check chain of custody documentation
- Screen suspect products FLEC chamber
- Purchase samples at retail, commercial, and internet outlets
- Samples sent to laboratory for testing





Enforcement

Emission Testing-Test Methods

- **CARB Enforcement Based on Secondary Test Method**

Small chamber will be deemed equivalent to large chamber

Lab is undergoing equivalence testing

- **California Dept. of Public Health (DPH)**

Working with CARB's lab regarding equivalence testing using DPH's large chamber

Emission testing to assist CARB in developing field screening method (FLEC) and test method for finished goods

- **Inter-laboratory Comparison Testing**

Planned for 4th quarter 2008





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Investigations

- Evaluate lab results
- Request information
 - California sales and purchase records
 - Quality control records, etc.
- Analyze information
- Determine who is the responsible party
- Issue Notice of Violation (NOV)





Enforcement

California Health & Safety Code

- 39674. Civil penalties; Strict liability; Liability for intentional or negligent violations
- (a) ...any person who violates any rule or regulation, emission limitation, ... is strictly liable for a civil penalty not to exceed \$1000 for each day of violation.
- (b)(1) ...\$10,000 for each day of violation.



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Penalty Assessment

- The extent of harm caused by the violation
- The nature and persistence of the violation
- The length of time over which the violation occurs
- The frequency of past violations
- Any action taken by the person including the nature, extent, and time of response of any mitigation of the violation
- The financial burden on the defendant
- Any other circumstances the court deems relevant
- Good faith efforts



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Case Settlement

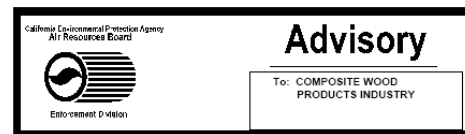
- Each case stands on its own
- Office conference
- Mutual settlement with Enforcement Division
- Referral to Legal Office for settlement
- Litigation referral to Attorney General or District Attorney
- Monitor corrective actions
- Ensure continued compliance
- Maintain level playing field



Enforcement

Stakeholder Assistance

- Enforcement Advisories
- Outreach at Conferences and Trade shows
- Site Visits
- Press Releases
- Staff Consultations



Number 380

August 2008

SELL-THROUGH PROVISIONS THAT APPLY TO MANUFACTURERS, IMPORTERS, DISTRIBUTORS, FABRICATORS, AND RETAILERS OF COMPOSITE WOOD PRODUCTS AND FINISHED GOODS

Introduction

In April 2007, the California Air Resources Board approved an airborne toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood products and from finished goods that contain composite wood products. Businesses required to comply with the ATCM include manufacturers, importers, distributors, fabricators, and retailers of composite wood products. The ATCM contains "sell-through" provisions that allow affected businesses to sell or use noncomplying composite wood products for specified periods of time after the effective dates in the ATCM. The purpose of this advisory is to describe these sell-through provisions.

The ATCM is contained in title 17, California Code of Regulations, sections 93120-93120.12. The ATCM applies to panels and finished goods that are sold, offered for sale, supplied, used, or manufactured for sale in California. The ATCM does not apply to panels and finished goods that are manufactured, distributed, fabricated, imported, sold, offered for sale, or supplied for shipment and use outside of California. A "panel" is any particleboard, medium density fiberboard, or hardwood plywood board, produced for sale, supply, or distribution by a composite wood product manufacturer. Panels are collectively referred to in the ATCM and this Advisory as "composite wood products." A "finished good" is any good or product (e.g., cabinets, furniture, etc.), other than a panel, that contains at least one of the three types of composite wood products.

The ATCM establishes formaldehyde emission standards for hardwood plywood, particleboard, and medium density fiberboard. In addition, the ATCM requires fabricators of finished goods to use composite wood products that comply with the emission standards. The first emission standards become effective on January 1, 2009. Except as provided in the sell-through provisions described below, all composite wood products and finished goods sold, offered for sale, supplied, used, or manufactured for sale in California after January 1, 2009, must comply with the applicable emission standards.

Sell-through Provisions of the ATCM

Appendix 2 of section 93120.12 contains the sell-through provisions and the dates that apply to entities required to comply with the regulation (for the specific dates, see the ATCM or the tables at the end of this Advisory). Under the sell-through provisions, composite wood products and finished goods manufactured *before* each applicable effective date may legally be sold, supplied, or offered for sale in California for specified periods of time after the effective date. Such products and finished goods do not need to comply with labeling requirements specified in the ATCM, unless these products comply with the emission standards in the ATCM. (If a composite wood product was manufactured *after* an applicable effective date, the product must meet the applicable emission standard and there is no sell-through period.) As explained below, the sell-through provisions are different for composite wood products and finished goods:



Continuing Implementation Activities

- Continue work with IWPA on importer/distributor implementation issues
- Web posting of world-wide certified mills
- Monitoring global supply of CARB certified composite wood products
- On-going ATCM outreach



For More Information

Visit our website:

<http://www.arb.ca.gov/toxics/compwood/compwood.htm>

Or contact us:

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